

**CITY OF WENATCHEE
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
CUP2014-01)	DECISION AND
Wenatchee Valley College)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the City of Wenatchee Hearing Examiner on February 25, 2014, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. An application was submitted by the Wenatchee Valley College on January 14, 2014 for a Conditional Use Permit: Institution of Higher Education.
2. The application is for establishment of a 4,987 square foot equipment, vehicle, and storage building for use by Wenatchee Valley College. Approximate dimensions of the proposed building are 108' x 45'8" with a peak height of 22'. The exterior materials are proposed to be metal cladding.
3. The subject property is located within the Residential High (RH) zoning district.
4. The Wenatchee Urban Area Comprehensive Plan land use designation is RH.
5. The proposed action is located directly south of the property addressed 805 Elliott Avenue, near the 'S bend' in Ninth Street. The subject property is identified by Chelan County Tax Parcel No: 22-20-04-730-030.
6. The subject property is approximately 0.21 acres in size.
7. The applicant / property owner is Wenatchee Valley College.
8. Institutions of Higher Education are permitted as a Conditional Use in the RH zoning district.
9. The proposal, as conditioned, is consistent with the provisions of Title 10 Zoning.
10. As conditioned, the proposal is consistent with the goals and policies of the Wenatchee Urban Area Comprehensive Plan.

11. One written public comment was received on 02/06/14, from Mrs. Adieau Culter, 806 Nelson Avenue, Wenatchee WA, with concerns related to structure height, water runoff, noise, lighting, fencing, color, irrigation, and property devaluation.
12. The application included a request for deviation from the Architectural Standards before the Wenatchee Planning Commission.
13. The Wenatchee Planning Commission considered the request on February 19, 2014 and made a recommendation for denial on the applicant's proposal.
14. Agency comments were received from:
 - 14.1 WSDOT stating no concerns. Received 02/05/14.
15. Wenatchee Valley College was the lead agency for SEPA.
16. The applicant is Wenatchee Valley College.
17. The owner is Wenatchee Valley College.
18. The SEPA Lead Agency is Wenatchee Valley College.
19. The applicant has submitted a Conditional Use Permit application for the establishment of a 4987 square foot equipment, vehicle, and storage building for use by Wenatchee Valley College. Appropriate dimensions of the proposed building are 108' x 45'8" with a peak height of 22'. The exterior materials are proposed to be metal cladding. The subject property is located within the Residential High (RH) zoning district.
20. The subject project area is located directly south of the property addressed 805 Elliott Avenue, near the 'S bend' in Ninth Street. The subject property is identified by Chelan County Tax Parcel Tax Parcel No: 22-20-04-730-030.
21. The subject site is approximately 0.21 acres in size and currently used as an unimproved open air storage yard for equipment and materials by Wenatchee Valley College. The site has a gradual slope running west to east with the western property line being approximately four feet lower than eastern property line.
22. Sanitation is provided by City of Wenatchee.
23. Domestic water is provided by City of Wenatchee.
24. Power is provided Chelan County PUD.
25. Fire protection is provided Wenatchee Fire Department.
26. Police protection is Wenatchee Police Department.
27. Access to the subject site from Ninth Street near the "S" bend in the road. The access is shared between the subject site and other maintenance facilities for Wenatchee Valley College. The adjoining right-of-way frontage of Ninth Street is unique in that it is much wider where it

adjoins the subject site. The increased right-of-way width does somewhat obscure the subject site from oncoming vehicle traffic.

28. The property to the north of the subject property is a single family residence. This property is zoned RH.
29. The property to the south of the subject property is the backyard of a single family residence. This property is zoned RH.
30. The property to the east of the subject property is a single family residence. This property is zoned RH.
31. The property to west of the subject property is Ninth Street. This property is zoned RH.
32. The proposed action is subject to land use provisions of the City of Wenatchee comprehensive plan, policies, and regulations.
33. In addition to general goals and policies of the Growth Management Act and Wenatchee Urban Area Comprehensive Plan which state growth shall occur where adequate public facilities exist and are able to serve existing and future growth, the following goals and policies set forth in the comprehensive plan are relevant to this development:
 - 33.1 Encourage continuing education and lifelong learning opportunities through local agencies, universities and organizations.
 - 33.2 New non-residential development to existing residential neighborhoods should be designed (landscaping and building design) and operated (traffic, noise, lighting, hours) to be compatible with the existing neighborhood.
34. "Institution of high education" means a public or private university, community college, technical college, and/or vocational and other educational institution beyond high school." Wenatchee Valley College is an " Institutional higher education" as that term is defined.
35. The subject property is located in the Residential High (RH) zoning district.
 - 35.1 "Institution of higher education" are permitted as a Conditional Use in the RH zoning district.
 - 35.2 RH zoning setbacks: 10' from the front property line plus any required additional public right-of-way. 10' rear yard, 6' side yard, maximum building height is 4 stories and 60 feet.
36. All conditional use permit applications must be evaluated by WCC Code Section WCC 10.65.060 "General Criteria". In addition to these general evaluation criteria, the following specific provisions of WCC Section 10.65.170, "Institution of higher education" are applicable.
 - (1) Off-street parking shall be provided as prescribed in Chapter 10.60 WCC;
 - (2) Minimum Setback Distance.

- (a) Front yard: same as required in the underlying zoning district;
 - (b) Rear and side yard: same as required in the underlying zoning district, plus one-half foot for each foot by which the building height exceeds 20 feet where a rear or side yard adjoins an RF, RS, RL or RM district;
 - (3) Maximum building height, RS, RL and RM: 40 feet. Other districts: same as the height limitation of the zoning district for other buildings;
 - (4) All bus loading areas shall be located off the public right-of-way;
 - (5) Landscaping and Screening. The development shall comply with Chapter 10.62 WCC, Landscaping and Screening, as amended;
 - (6) Architectural Scale. New nonresidential buildings in the RS, RL, RM, and RH zoning districts shall meet WCC 10.48.080(4). Deviations to these standards may be considered where the applicant can demonstrate that the change or deviation in design is either necessary due to the inherent function of the facility, and/or the change provides for equal or greater compatibility with the character of the surrounding neighborhood. Consideration of such a deviation shall include an informal design review workshop recommendation of the planning commission, where input from the surrounding neighborhood shall be solicited, and incorporated.
- 37. The subject site is outside of the 200' shoreline jurisdiction.
 - 38. The subject site is not identified within the current critical area maps used by the City.
 - 39. A Notice of Application was submitted on January 14, 2014.
 - 40. A Determination of Completeness was issued on January 24, 2014.
 - 41. Notice of application was provided on January 24, 2014.
 - 42. Notice of public hearing was provided on January 24, 2014.
 - 43. The Notice of Application/Notice of Hearing was referred to the below jurisdictional agencies and departments of the City on February 5, 2014. The following summarizes comments:
 - 43.1 Washington State DOT responded on February 5, 2014.
 - 43.2 Department of Ecology responded February 18, 2014.
 - 44. The following agencies were notified but did not respond:
 - 44.1 Wenatchee Reclamation
 - 44.2 Department of Fish and Wildlife
 - 44.3 Washington State Department of Archaeology & Historic Preservation
 - 44.4 Chelan County Public Works
 - 44.5 Chelan County PUD

- 44.6 Charter Communications
 - 44.7 USPS
 - 44.8 Department of Natural Resources
 - 44.9 City of Wenatchee Public Works
 - 44.10 Chelan County PUD Engineering
 - 44.11 City of Wenatchee Environmental Department
 - 44.12 Frontier Communications
 - 44.13 Wenatchee Fire Marshal
 - 44.14 Chelan/Douglas Health District
45. One written public comment was received on February 6, 2014, from Mrs. Adieau Culter, 806 Nelson Avenue, Wenatchee, WA with concerns related to structure height, water runoff, noise lighting, fencing, color, irrigation, and property devaluation.
46. Wenatchee Valley College prepared and circulated a SEPA checklist and issued a determination of Non-Significance on January 24, 2014.
47. The project is consistent with the City of Wenatchee Comprehensive Plan in the following respects:
- 47.1 The applicant's proposal for establishment of a shop building indirectly meets the intent of Policy 5 under the Civic Life Chapter which is to "encourage continuing education and lifelong learning opportunities through local agencies, universities and organizations."
 - 47.2 The shop building provides for improved service in the overall maintenance and continuation of Wenatchee Valley College, which does provide local education.
 - 47.3 Policy 6 under Residential Development states that "new non-residential development in existing residential neighborhoods should be designed (landscaping and building design) and operated (traffic, noise, lighting, hours) to be compatible with the existing neighborhood."
 - 47.4 In regard to policy 6 above, the applicant is proposing establishment of a shop building to organize / cleanup an existing open air area used for the storage of equipment and materials. The proposed exterior building style / materials are proposed to be less formal than other education buildings located on campus due to the nature of the building being solely for storage and maintenance; the building is not intended to be used by students or members of the public.
 - 47.5 The proposed building will not have outdoor condensing units or heat pumps that could result in noise. In addition, outdoor lighting is proposed on the west and south sides of the building through LED light fixtures; not directly any neighboring structure.
 - 47.6 Landscaping is proposed with the application and environmental aspects such as traffic, noise, lighting, and hours are proposed to be compatible and consistent with the surrounding area by nature of the proposed use as storage building. The hours of operation will be consistent with existing hours of operation for Wenatchee Valley College.

48. The project is consistent with the specific criteria associated with Conditional Use Permits for Institutions of Higher Education as follows:

48.1 Off-street parking shall be provided as prescribed in Chapter 10.60 WCC;

The proposal as a shop / maintenance building has capacity for vehicle storage. The applicant's proposal includes a request to allow required parking to be located on another portion of the college campus. The request for allowing parking elsewhere on site has been determined not to require a formal shared parking agreement as the minimum number of off-street parking spaces required with application can technically be met inside the proposed building; no employees will occupy the proposed structure and are currently parking elsewhere on site within existing formally designated and approved parking locations.

48.2 Minimum Setback Distance;

48.2.1 Front yard; same as required in the underlying zoning district.

48.2.2 Rear and side yard; same as required in the underlying zoning district, plus one-half foot for each foot by which the building height exceeds 20 feet where a rear or side yard adjoins an RF, RS, RL or RM district.

48.2.3 The current proposal meets the front, side, and rear setbacks for the RH zoning district. In addition, the proposal meets the maximum allowed lot coverage of 55 percent for the RH zoning district.

48.3 Maximum building height, RS, RL and RM: 40 feet. Other districts: same as the height limitation of the zoning district for other buildings.

48.3.1 The proposed height is less than the underlying 60 foot maximum allowed in the RH zoning district and meets this criterion.

48.4 All bus loading areas shall be located off the public right-of-way.

48.4.1 No bus loading area is proposed with the current application. Loading and unloading that may occur will be off the public right-of-way.

48.5 Landscaping and Screening. The development shall comply with Chapter 10.62 WCC, Landscaping and Screening, as amended.

48.5.1 The current proposal includes a preliminary landscaping plan that meets the criteria for the RH zone through perimeter screening. The proposed landscaping also includes improvements in the expanded right-of-way along Ninth Street which will require a right-of-way permit.

48.6 Architectural Scale. New nonresidential buildings in the RS, RL, RM and RH zoning districts shall meet WCC 10.48.080(4). Deviations to these standards may be considered where the applicant can demonstrate that the change or deviation in design

is either necessary due to the inherent function of the facility, and/or the change provides for equal or greater compatibility with the character of the surrounding neighborhood. Consideration of such a deviation shall include an informal design review workshop recommendation of the planning commission, where input from the surrounding neighborhood shall be solicited, and incorporated in staff analysis before the hearing examiner.

- 48.6.1 The applicant submitted a request for deviation of required architectural standards. The Wenatchee Planning Commission's recommended denial of the request.
- 48.7 The general criteria for conditional use permits require that the proposal is compatible with adjacent uses and will protect the character of the surrounding area and will not result in undue adverse impacts affecting the public health, safety, and welfare.
 - 48.7.1 The surrounding area includes both the Wenatchee Valley College campus and single family structures. In regard to the surrounding neighborhood, existing single family homes in the area contain detached accessory structures that are similar in shape and materials to the applicant's proposal.
 - 48.7.2 Concerns related to view obstruction to the neighboring residences are not regulated by city code. The height of the proposed structure at 22 feet is less than the 60 foot maximum allowed in the RH zoning district.
 - 48.7.3 Storm water associated with the project before, during, and after construction is required to not run onto adjoining properties; the applicant's proposal includes connecting to the existing storm system.
 - 48.7.4 The existing site is served by Wenatchee Police and Fire services and does not pose any additional service requirements on these services. In addition, the nature of the proposed use does not include practices that create adverse impacts to the surrounding area in the form of odor, dust, traffic, noise, or lighting.
- 49. As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 10 of the Wenatchee City Code. Staff recommended approval of CUP14-01.
- 50. An open record public hearing after legal notice was provided was held on February 25, 2014.
- 51. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
- 52. Admitted into the record were the following exhibits:
 - 52.1 Exhibit 1: Draft planning commission minutes of February 19th, 2014.
 - 52.2 Exhibit 2: Exhibits submitted by neighbors
 - 52.3 Exhibit 3: Site photographs from staff
 - 52.4 Exhibit 4: Summary of project submitted by applicant
 - 52.5 Exhibit 5: CD submitted by Patrick and Adieau Cutler
 - 52.6 Exhibit 6: Survey dated October 16, 1989

53. Appearing and testifying on behalf of the applicant was Susie Benson, vice president, administrative services for Wenatchee Valley College and Greg Randall, director of facilities and operation of Wenatchee Valley College. Both Mrs. Benson and Mr. Randall testified that they were agents authorized to appear and speak on behalf of the applicant and property owner. They testified that there plan was to repurpose Batjer Hall from storage into instructional facilities. The storage would be moved to the proposed new building. They testified that they were requesting a deviation from architectural standards because this was simply a storage building and the articulation and modulation requirements should not be required. They testified that there would be no kitchen facilities, one restroom, no living facilities and no office space. They testified that they had no objection to any of the proposed conditions of approval.
54. Testifying from the public were the following individuals:
 - 54.1 Patrick Cutler and Adieau Cutler. The Cutler's jointly testified that they were husband and wife and reside at 806 Nelson in Wenatchee, Washington. The proposed building would be located behind there back yard. Generally their testimony related concerns regarding the scale of the building in that its size and location would restrict light and their view from their back yard. They also had concerns about storm water run off into their property. Mr. Cutler made suggestions how the project could be modified to reduce these impacts. They also indicated that the view of there neighbor, Nancy Schutt would be "obliterated." Most of their testimony addressed complaints with the SEPA determination. However that SEPA determination was not appealed.
 - 54.2 Nancy Schutt. Mrs. Schutt testified that she agreed with the Cutlers testimony, specifically regarding concerns about the new building blocking sun light from entering her property and blocking her view.
55. In response to public testimony, testifying for the applicant was Paul Coppock of DOH Associates. Mr. Coppock testified about why they wanted to minimize grading on the property. Also, he discussed the slope of the roof and the requirements in order to meet appropriate snow loads for the design of the roof.
56. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
57. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
58. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
59. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
60. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.

61. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
62. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
63. The proposed conditional use will comply with all required performance standards specified in Wenatchee Municipal Code.
64. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified in the Wenatchee Municipal Code.
65. The proposal conforms to the standards specified in the Wenatchee Municipal Code.
66. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposal is consistent with the intent, purposes, and regulations of the Wenatchee Municipal Code and Comprehensive Plan.
3. As conditioned, this proposal meets the general and specific conditional use criteria for "Institutions of higher education".
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Comments from the public and reviewing agencies have been considered and addressed where appropriate.
6. As conditioned, the proposal will not be significantly detrimental to the public health, safety and welfare; diminish the value of nearby property or improvements; or disturb persons in the use of property unless the conditional use is a public necessity.
7. As conditioned, the proposal has been designed to minimize adverse effects on neighboring properties, to include at minimum the effects of lighting, transportation, noise, odor, dust, and appearance.
8. The conditions of approval are the minimum necessary to ensure the proposal will comply with all applicable laws and regulations.
9. All conditions placed upon the proposed use are conditions that are measurable and can be enforced and monitored.
10. Public use and interests will be served by approval of this proposal.

11. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Wenatchee Municipal Code and Comprehensive Plan.
12. As conditioned, the proposal does conform to the standards specified in the Wenatchee Municipal Code.
13. As conditioned, the use will comply with all required performance standards as specified in the Wenatchee Municipal Code.
14. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Wenatchee Municipal Code or the Comprehensive Plan.
15. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
16. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application CUP2014-01 and the Architectural design deviation are hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with City of Wenatchee, except as modified by conditions below.
5. The project shall proceed in substantial conformance with the plans and application materials on file except as amended by the conditions herein.
6. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

7. Any lighting associated with the completed project shall not be installed to shine on adjoining properties.
8. Any work or improvements in the public right-of-way shall require review and approval by the City of Wenatchee Public Works department.

Dated this 4th day of March, 2014.

CITY OF WENATCHEE HEARING EXAMINER



Andrew L. Kottkamp

Action of the Hearing Examiner is final unless, within twenty one (21) days of the Issuance of the Notice of Final Decision, an appeal is filed in the Chelan County Superior Court as provided for in the Wenatchee City Code, Title 13, Chapter 13.11, and RCW 36.70C.040(3)(4)(a); provided however, that no final decision of the hearing examiner may be appealed to superior court unless such party has first brought a timely motion for reconsideration of the hearing examiner's decision pursuant Wenatchee City Code, Title 13, Chapter 13.11.060.